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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,697	05/20/2004	Lucretia Sessano	SESSANO ET AL I	7641
25889	7590	08/11/2006	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSELYN, NY 11576			HANSEN, JAMES ORVILLE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/849,697	Applicant(s) SESSANO ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 13 & 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on May 25, 2006. It is noted that the examiner has withdrawn claims 13 & 14 as being drawn to the species of Group II (fig. 4) since this embodiment is distinct as defined by the claimed “two doors” limitation [in reference to the “cover”].
2. Applicant's election with traverse of Group I in the reply is acknowledged. The traversal is on the ground(s) that the independent claims have a unitary connection and that the search for each species would necessarily include the same search. This is not found persuasive because applicant did not submit evidence or identify such evidence now of record showing the species as being obvious variants or clearly admit on the record that this is the case. The requirement is still deemed proper and is therefore made FINAL.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “22” has been used to designate both a “leg support” and a “locking handle”. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the

top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "backboard", "at least one runner", "magnetic elements" and "a bolt" must be clearly depicted and/or properly referenced [i.e., identified in the drawings] or the features canceled from the claims. **No new matter should be entered.**

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, it is not understood how the plurality of legs are “retractable into the housing” in view of the specification and drawings as originally filed; furthermore, it is not understood how the “cover slides over the runners to open the housing” since it appears that the “runners” are arranged along one of the leg portions and the cover itself. Consequently, the remaining claims are dependent upon a non-enabled claim.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2, 4, 8, 11 & 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 2, the phrase “legs that can be retracted into said housing” is unclear and confusing as presently set forth since it is not clear how the legs (21, 27 & 23, 29) can be “retracted into the housing” in view of the originally filed drawings that do not appear to substantiate the claimed limitation. In Claim 4, the phrase “cover comprises... a plurality of tracks and said

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housing comprise at least one runner” is unclear and confusing as presently recited since the housing does not appear to have a “runner” that is associated with the tracks (17b). In Claim 8, the phrase “said lock” does not have a proper antecedent basis, and it is not clear if the “wherein a lock” limitation is the same “lock” as previously referenced, i.e., “said lock” earlier in the claim, or if the limitation is a new and distinct element. In Claim 11, the phrases “said plurality of holders” and “said magnetic elements” do not have a proper antecedent basis. In Claim 12, the phrase “in the form of a bolt” renders the claim indefinite because the claim may include elements not actually disclosed (in view of the “in the form of” recitation), thereby rendering the scope of the claim unascertainable.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4 & 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Canavan [U.S. Patent No. 3,476,456]. Canavan (figures 1-9) teaches of a “safety station” for a construction site comprising: a housing (defined as the case); a retractable stand (the leg elements as shown in fig. 4 are viewed as a “stand”) coupled to the housing wherein the retractable stand includes a plurality of legs (50a, 50b for example) coupled to the housing, wherein the plurality of legs are retractable into the housing as clearly described and shown in Canavan; a backboard (viewed as (40) or the bottom wall of the case e.g.) coupled to the housing; a plurality of tools (35, 42 –

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and tools depicted in fig. 3 e.g.,) coupled to the backboard; and a cover (30 or 20 e.g.,) for covering the plurality of tools on the backboard, the cover coupled to the housing, and being movably attached to the housing (see figures), wherein the cover can be moved along the housing for opening and closing access to the housing. The legs comprise a plurality of telescoping legs (fig. 3) that can be retracted into the housing (fig. 5). The safety station further comprising a plurality of hinges (viewed as 56 & 55 – pivot bar, about which the leg hinges to fold into the space provided within the case) wherein the plurality of legs comprise a first set of legs (viewed as the pair of legs along the front side of the case – fig. 3) and a second set of legs (viewed as the pair of legs along the rear side of the case – fig. 3) wherein the plurality of hinges are disposed between the first set of legs and the second set legs (note that the “hinges” are located interior of the legs) so far as broadly recited, and wherein the second set of legs can be folded up via the plurality of hinges and into the housing as readily apparent to the examiner. The cover (20) comprises a slidable cover including a plurality “tracks” (15 e.g., on the cover) and the housing including at least one “runner” (29) wherein the slidable cover slides over the runners to open the housing (the cover is able to slide longitudinally as indicated in fig. 1) as best understood by the examiner [note 112 rejections above]. The safety station further comprising a lock (provided with a lock – see col. 4, line 52) for locking the cover to the housing. As to claim 8, a lock (19) is in the form of a loop coupled to the cover, and a loop (mating loop structure on the case – figs. 3-4) coupled to the housing wherein a lock (the conventional lock as noted in col. 4, line 52) can be inserted into the loop coupled to the cover and the loop coupled to the housing to lock the cover to the housing as readily apparent to the examiner and as best understood by the examiner [note 112 rejections above]. The safety station

further comprising a plurality of holders (61, 62) and a plurality of fasteners (63) coupled to the plurality of holders wherein the fasteners are for fastening to the backboard (as depicted in fig. 4) so far as broadly claimed.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 9, 10 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canavan in view of Germano [U.S. Patent No. 6,113,202]. Canavan teaches applicant's inventive claimed structure as disclosed above, but does not show a plurality of bolt fasteners coupled to holders (in this case, the holders are viewed as the curved partitioned panels as shown in fig. 1 of Canavan) for fastening the holders to the backboard or show magnetic elements coupled to the holders. Germano (figures 1-7) is cited as an evidence reference to show that it was known to utilize various holders (see figs. 1 & 5) for holding tools and to secure the holders via various fastening means (bolt fasteners, Velcro, magnetic means for example). Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the means for securing holders to the backboard as taught by Germano because this arrangement would enhance the versatility of Canavan's station since the user may employ a variety of holder securing means as dictated by needs or preferences of the user, the securing means providing a stable and secure engagement of the holder to the backboard.

13. Claims 10 & 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canavan in view of Knutson [U.S. Patent No. 5,295,742]. Canavan teaches applicant's inventive claimed structure as disclosed above, but does not show a plurality a plurality of magnetic elements coupled to holders (in this case, the holders are viewed as the curved partitioned panels as shown in fig. 1 of Canavan) for fastening the holders to the backboard comprised of a ferromagnetic material. Knutson (figures 1-6) is cited as an evidence reference to show that it was known to utilize a ferromagnetic backboard (150) for allowing holders (306) having magnetic elements (342) to be secured to the backboard. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the means for securing holders to the ferromagnetic material backboard as taught by Knutson because this arrangement would enhance the versatility of Canavan's station since the user may employ an easily removable holder that when attached to the backboard is stable and maintains a fixed engagement to the backboard.

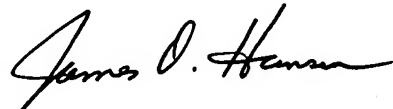
Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Spevak, Schieve, Drake, Boes et al., Fuhri, Allison, Hoyer Jr. et al., Glinecki, and Thorp describe "safety station" structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
August 7, 2006